

Letter to United States Attorney Re: Filing of Abstract of Judgment, Abstract of Judgment Form, and Instructions

_____ - CMN _____

United States Attorney

Re: _____

Dear _____:

We enclose the original and two copies of an abstract of judgment against _____, a judgment debtor in the above case. We request that you obtain the signature of the Clerk of Court on the original and, thereafter, arrange for its filing with [the appropriate office designated by law for filing tax liens]. A copy of the abstract which notes the appropriate filing information (e.g., the book and page number) and the date of filing should be returned to this office.

Thank you for your assistance in this matter. Any questions should be directed to _____, Paralegal Specialist at [telephone number].

Sincerely yours,

[NAME OF ASSISTANT ATTORNEY GENERAL]
Assistant Attorney General
Tax Division

By:

[NAME OF CHIEF]
Chief, Civil Trial Section
_____ Region

Enclosure

By _____, Deputy Clerk

INSTRUCTIONS FOR ABSTRACT OF JUDGMENT

Legal References: 28 U.S.C. § 3201
26 U.S.C. § 6323(f)
18 U.S.C. § 3613(e)

Completion of Form:

1. Enter the full name(s) and address(es) of the debtors in the box on the upper left of the form.
2. Enter the "United States of America" in the box on the upper right of the form.
3. Enter the total amount of the judgment and costs on the lines provided in the box on the lower left of the form. Add "plus interest" and "plus penalties" below the amount of the judgment where applicable. See Exhibits 3, 4, 7 & 8 of this Manual for more information.
4. Enter the full name and address of the United States Attorney's office [see 28 U.S.C. §3002(1)] followed by a contact designation, e.g., Financial Litigation Unit, in the box labelled "Names of Creditors' Attorneys."
5. Enter the date the judgment was docketed by the court in the box on the lower right of the form.
6. Enter the city where the court is located in the space after "Date,".
7. Request the United States Attorney to submit the Abstract of Judgment to the Clerk of Court for signature and seal. The Clerk of Court is not required to maintain a copy of the Abstract of Judgment or to docket the date of issuance of the Abstract (unless the federal court is the place designated by law for the filing of federal tax liens.)
8. The certified Abstract of Judgment should be forwarded to the United States Attorney requesting him or her to forward it to the appropriate office for filing. Copies should be maintained by the Trial Attorney in the DJ and personal files.

Practice Comments:

Pursuant to 26 U.S.C. § 6323(f), each state may designate an office for the filing of federal tax liens. In the absence of a designation under state law, tax liens are filed with the United States District Court. Local court authorities and the Internal Revenue Service (District Counsel or Special Procedures Function) should be consulted concerning local practices and procedures.

State law requirements for including dates of birth, drivers' license numbers, Social Security numbers and similar information to perfect a judgment have been preempted by the Federal Debt Collection Procedures Act. 28 U.S.C. § 3003(d). A Social Security number may be stated immediately under the debtor's full name and address if it is contained in documents filed with the court, such as the Certificate of Indebtedness, thereby making it available in the court file. However, this information is not required under the Federal Debt Collection Procedures Act. Similarly, the Federal Debt Collection Procedures Act does not specify that the rate of interest for the judgment be stated on the Abstract and the notation "plus interest" is adequate to meet

the statutory requirements.^{1/} Ordinarily, the court's docket entry for the judgment should provide sufficient information to obtain certification of the Abstract of Judgment. See, e.g., F.R.Civ.P. 79.

The address entered for the debtor will be the location of real property to which the debtor holds title. If the debtor does not own real property, the debtor's current or last known address may be used. The address need not be the address used by the debtor at the time of service or judgment. See, e.g., Fed. R. Civ. P. 5(b) which contemplates that the use of different addresses may be necessary. Multiple Abstracts of Judgment may be issued and filed when the debtor owns real property in more than one location.

Wholesale refiling of liens under the Federal Debt Collection Procedures Act is not necessary and may not be desirable. Pursuant to § 3631 of the Federal Debt Collection Procedures Act, which can be found as a footnote to 28 U.S.C. § 3001, liens filed under prior law remain in full force and effect. Refiling the lien may result in confusion over the temporal priority to be accorded to the lien.

Abstracts of Judgment may be filed for judgments for court costs, attorney fees and other sanctions.

^{1/} In contrast, provisions for other procedures under the Federal Debt Collection Procedures Act make it mandatory to set forth specific information on interest. See, e.g., 28 U.S.C. §§ 3203(c)(2) and 3205(c)(2)(A).